

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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JOHN DIAZ,	:	
	:	
Plaintiff,	:	Civil Action No.
	:	10-3932 (JBS)
	:	
v.	:	<b><u>O R D E R</u></b>
	:	
CUMBERLAND COUNTY JAIL,	:	
	:	
Defendant.	:	
	:	

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For the reasons expressed in the Opinion filed herewith,

IT IS on this 23rd day of September 2010,

**ORDERED** that Plaintiff's application to proceed in forma pauperis is granted, and the Clerk shall file the Complaint without prepayment of the filing fee; and it is further  
**ORDERED** that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall serve a copy of this Order upon the Attorney General of the State of New Jersey and upon the Warden of Plaintiff's current place of confinement; and it is further

**ORDERED** that Plaintiff is assessed a filing fee of \$350.00 which shall be deducted from his prison account pursuant to 28 U.S.C. § 1915(b) (2) in the manner set forth below, regardless of the outcome of the litigation; and it is further

**ORDERED** that, pursuant to 28 U.S.C. § 1915(b) (1) (A), Plaintiff is assessed an initial partial filing fee equal to 20% of the average monthly deposits to the Plaintiff's prison account

for the six month period immediately preceding the filing of the Complaint; when funds exist, the New Jersey Department of Corrections shall deduct said initial fee from Plaintiff's prison account and forward it to the Clerk; and it is further

**ORDERED** that, pursuant to 28 U.S.C. § 1915(b) (2), until the \$350.00 filing fee is paid, each subsequent month that the amount in Plaintiff's prison account exceeds \$10.00, the New Jersey Department of Corrections shall assess, deduct from the Plaintiff's account, and forward to the Clerk payments equal to 20% of the preceding month's income credited to Plaintiff's prison account, with each payment referencing the docket number of this action; and it is further

**ORDERED** that the Clerk shall serve copies of this Order and Opinion filed herewith upon Plaintiff by regular mail; and it is further

**ORDERED** that the Complaint is DISMISSED; such dismissal is with prejudice with regard to all claims against Defendant Cumberland County Jail, and also with regard to Plaintiff's claims asserting denial of request to file a criminal complaint and Plaintiff's housing in cells without running water. Plaintiff's remaining claims asserting denial of recreation, denial of legal phone calls and retaliatory actions by jail officials are dismissed without prejudice to curing defects in an

Amended Complaint in accordance with the accompanying Opinion; and it is further

**ORDERED** that the Clerk shall administratively terminate this matter by making a new and separate entry on the docket reading "CIVIL CASE TERMINATED"; and it is further

**ORDERED** that Plaintiff may have this matter reopened in the event Plaintiff files, within thirty days from the date of entry of this Order, Plaintiff's amended complaint detailing, in accordance with guidance provided to Plaintiff in the Opinion filed herewith, Plaintiff's claims asserting denial of recreation, denial of legal phone calls and retaliatory actions by jail officials; and it is finally

**ORDERED** that, if Plaintiff timely files such amended complaint, the Court will direct the Clerk to reopen this matter and will screen Plaintiff's amended complaint.

s/ Jerome B. Simandle

JEROME B. SIMANDLE  
United States District Judge